

Proposed Zoning Amendment: Zone I - Groundwater Conservation District

Introduction

Groundwater Conservation District Revisions Proposed Amendment to the Town of Raymond Zoning Ordinance

The Town of Raymond currently has in place a Groundwater Conservation Overlay District – Zone I, which applies to the Wellhead Protection Area identified in the town's Wellhead Protection Program, dated May 1992. Also included are those areas currently identified as GAA, GA1 and GA2, as designated by NH DES and the Stratified Drift Aquifers shown on the map entitled "Generalized Aquifer Boundaries" which was prepared in 1990. (see Article III, Sections 3.340 and 3.341 and Article IV, Section 4.240 in the Town of Raymond's Zoning Ordinance).

This proposed amendment has been prepared to update the Town of Raymond's Zone I –Groundwater Conservation District to reflect the latest NH DES Model Groundwater Protection Ordinance and to include the latest stratified drift aquifer mapping recently prepared by NH DES and the USGS. These maps also include revisions to the town's existing wellhead protection area boundaries (GAA boundary change) as recently delineated by NH DES.

In support of this zoning amendment, a Source Water Protection Plan was prepared for the Planning Board and Board of Selectmen to review and adopt. This plan was prepared as a result of a request by the Raymond Planning Board during the master plan update process, which was completed in October 2009.

Raymond's Source Water Protection Plan is intended to be a planning guide for local officials to use to protect drinking water sources within the town. One of the main goals of the plan is to prepare an update to the Town of Raymond's groundwater conservation district. As a result, the following amendments to the Town of Raymond's Zoning Ordinance -- Articles III and IV are proposed as provided below.

ARTICLE III – ZONES

3.340 ZONE I - GROUNDWATER CONSERVATION DISTRICT (03/02)

01 AUTHORITY: The Town of Raymond hereby adopts this Ordinance pursuant to the authority granted **under RSA 674:16**, in particular RSA 674:16, II relative to innovative land use controls.

02 PURPOSE: The purpose of this Ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

3.341 GROUNDWATER CONSERVATION DISTRICT

The Groundwater **Conservation** District is an Overlay District which is superimposed over the existing underlying zoning and includes within its boundaries the Wellhead Protection Areas identified in the Town's Wellhead Protection Program dated May, 1992 **and the Town's Source Water Protection Plan dated November, 2009 and as may be designated by NH Department of Environmental Services (NH DES)**, including those areas currently identified as GAA, GA1 and GA2 **and the Stratified Drift Aquifer(s) shown on the map entitled "Combined Aquifer, Surficial Geology and Wellhead Protection Areas" dated February 2009 (Map 4) included in the Town of Raymond's Source Water Protection Plan dated November, 2009 and as may be amended from time to time by the Raymond Planning Board. Copies of these reports and maps shall be kept on file with the Raymond Community Development Department.**

ARTICLE IV – USES AND STANDARDS

4.241 DEFINITIONS

- 01 AQUIFER:** A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
- 02 "GAA":** Means "GAA" as defined in RSA 485-C:5,I, namely "groundwater in this class is within the wellhead protection area for wells which presently are used or well sites which have been identified for future use as drinking water supply for public water systems."
- 03 "GA1":** Means "GA1" as defined in RSA 485-C:5,I, namely "groundwater in a defined zone of high value for present or future drinking water supply."
- 03 "GA2":** Means "GA2" as defined in RSA 485-C:5,I, namely "groundwater within aquifers identified as highly productive for potential use as a public water supply by the U.S. Geological Survey regional groundwater studies, or other regional studies."

05 GASOLINE STATION: Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.

06 GROUNDWATER: Subsurface water that occurs beneath the water table in soils and geologic formations.

07 PETROLEUM BULK PLANT or TERMINAL: means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

08 IMPERVIOUS: Not readily permitting the infiltration of water.

09 IMPERVIOUS SURFACE: A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt; earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious.

10 JUNKYARD: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

~~**LOAM:** See NH Department of Transportation Section 641.~~

11 OUTDOOR STORAGE: Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

12 PUBLIC WATER SYSTEM: A system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

13 REGULATED SUBSTANCE: Petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

- 14 SANITARY PROTECTIVE RADIUS:** The area around a well which must be maintained in its natural state as required by **Env-Dw 301 or Env-Dw 302** ~~Env-Ws 378 or 379~~ (for community water systems) and **Env-Ws 373.12 and Env-Ws 372.14** ~~Env-Ws 372.12 and Env-Ws 372.13~~ (for other public water systems).
- 15 SECONDARY CONTAINMENT:** A structure such as a berm or dike with an impervious surface which is adequate to hold at least one-hundred ten percent (110%) of the volume of the largest regulated-substances container that will be stored there.
- 16 SNOW DUMP:** For the purposes of this Ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.
- 17 SOURCEWATER:** *Ground water or surface water, in its natural state, prior to any treatment for drinking.*
- 18 STRATIFIED DRIFT AQUIFER:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial melt water, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.
- 19 SURFACE WATER:** Streams, lakes, ponds and tidal waters, including marshes, water courses and other bodies of water, natural or artificial.
- 20 WELLHEAD PROTECTION AREA:** The surface and subsurface area surrounding a water-well or well field supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water-well or well field.

4.242 APPLICABILITY

This Ordinance applies to all uses in the Groundwater **Conservation** District, except for those uses exempt under **Section 4.250** ~~Article XI~~ of this Ordinance.

4.243 PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Groundwater **Conservation** District unless exempt under Section 4.248:

- 01** For any use that will render impervious more than fifteen percent (15%) or more than 2,500 square feet of any lot, whichever is less, a stormwater management plan shall be prepared which the Planning Board determines is consistent with the **New Hampshire Stormwater Manual: Volume I - Stormwater and Antidegradation; Volume II - Post-Construction Best Management Practices Selection and Design and; Volume III - Erosion and Sediment Controls During Construction, NH Department of Environmental Services, December 2008.** ~~Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992 and Best Management Practices for Urban Stormwater Runoff, New Hampshire Department of Environmental Services, January 1996.~~

02 Conditional Uses, as defined under Section 4.2478 of this Ordinance shall develop stormwater management and pollution prevention plans and include information consistent with the handbook entitled Stormwater Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices (US EPA, 1992). The plan shall demonstrate that the use will:

- a) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater;**
- b) Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;**
- c) Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and shall not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).**

03 Animal manures, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, July, 2008, and subsequent revisions.

Comment [MSOffice1]: Latest version.

04 All regulated substances stored in containers with a capacity of more than 5 gallons ~~or more~~ must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.

05 Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door(s) and/or gate(s) which are locked when authorized personnel are not present and must be inspected weekly by the facility owner.

06 Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least **75 feet** from surface water or storm drains, wetlands, private wells and outside the sanitary protective radius of wells used by public water systems.

07 Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of more than 275 gallons of regulated substances are stored outdoors on any particular property.

08 Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

09 Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.

4.244 SPILL PREVENTION, CONTROL AND COUNTERMEASURE (SPCC) PLAN

Conditional uses, as described under Section 4.248 ~~4.247~~ of this Ordinance, Subsection A, using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Technical Review Committee (TRC) who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. It shall include:

- (1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
- (2) Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment;
- (3) A list of all regulated substances in use and locations of use and storage;
- (4) A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where industry experience indicates a potential for equipment failure; and
- (5) A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
- (6) Emergency response plan describing and assigning responsibilities and actions to be taken.

4.245 REPORT OF RESOLUTION

Upon resolution of the response to a spill, the organization responsible for the premises shall provide a complete Report of Resolution to the Raymond TRC outlining actions taken and clearances provided by pertinent local, state and federal agencies.

4.246 PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Conservation District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under **Section 4.250** ~~4.249~~.

4.247 PROHIBITED USES

The following uses are prohibited in the Groundwater Conservation District.

01 The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A;

02 The siting or operation of a solid waste landfill;

~~The outdoor storage of road salt or other deicing chemicals in bulk;~~

0403 _____ The siting or operation of a junkyard;

0504 _____ The siting of a snow dump;

0605 _____ The siting or operation of a wastewater or septage lagoon;

0706 _____ **The siting or operation of a sludge monofill or sludge composting facility; and**

~~The storage of commercial fertilizers, unless such storage is within a structure designed to prevent the generation and escape of runoff or leachate and is in compliance with the standards of Section 4.243, Subsections 03 through 08 of this Ordinance.~~

4.248 CONDITIONAL USES

The issuance of a Conditional Use Permit is subject to Site Plan Approval by the Planning Board. The Planning Board may grant a Conditional Use Permit for a use that is otherwise permitted within the underlying district, if the permitted use is or is involved in one or more of the following:

- A. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan prepared in accordance with Section 4.244 by a qualified professional, submitted to the Technical Review Committee for review and approval, with the final plan also submitted to the Raymond Fire Department and the Raymond Community Development Department for its records. The Technical Review Committee may employ the services of a qualified peer review professional to review the plan at the applicant's expense.
- B. Any use that will render impervious more than 15% or ~~40,000~~ 2,500 square feet of any lot, whichever is ~~less~~ greater.

Comment [MSOffice2]: Corrected

In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guaranty or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards. The amount of this bond shall be in addition to any other bond required by the Board under either the subdivision or site plan regulations.

4.249 EXISTING NON-CONFORMING USES

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices Rules. However, under no circumstances will a nonconforming use be permitted when a continuance of that use presents a risk to public health and/or safety.

4.250 EXEMPTIONS

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

- 01 Any private residence is exempt from all Performance Standards.
- 02 Any business or facility where regulated substances are ~~not~~ stored in containers with a capacity of five (5) gallons or ~~more~~-less is exempt from Performance Standards 05 through 08.
- 03 Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 05.
- 04 Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 05 through 08.
- 05 Storage and use of office supplies is exempt from Performance Standards 05 through 08.
- 06 Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 05 through 08.
- 07 The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this Ordinance.
- 08 Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 05 through 08.
- 09 Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under **Section 4.250** of this ordinance.

4.251 AMENDMENTS TO MAP

The Planning Board, after a public hearing held in accordance with RSA 675:6, may revise the "Combined Aquifer, Surficial Geology and Wellhead Protection Areas" map, as may be recommended from time to time by the New Hampshire Department of Environmental Services.

4.252 RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Where both the State and the municipality have existing requirements the more stringent shall govern.

4.253 MAINTENANCE AND INSPECTION

- 01 For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Rockingham County. The description so prepared shall comply with the requirements of RSA 478:4-a.
- 02 Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Director of Public Works or designee at reasonable times with prior notice to the landowner.
- 03 All properties within the Groundwater Conservation District known to be using or storing regulated substances in containers with a capacity of greater than 5 gallons ~~or more~~, except for facilities where all regulated substance storage is exempt from this Ordinance under **Section 4.250** 4-2-49, shall be subject to inspections under this Section.
- 04 The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

4.254 ENFORCEMENT PROCEDURES AND PENALTIES

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in NH RSA 676.

4.255 SAVING CLAUSE

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Ordinance.

4.256 EFFECTIVE DATE

This ordinance shall be effective upon adoption by the municipal governing body.